

Answer to Opposition: ESRTTA 490205 Filing Date 8/21/2012

Opposers Information:

Name	TEVA Pharmaceutical Industries Ltd.	Teva Respiratory LLC
	Science Based Industries Campus	425 Pivet Road
	Jerusalem, 91010 ISRAEL	Horsham, PA 19044

Attorney info: Lisa Pieroni Phone 212-697-3750
 Kirschstein ,Israel,et al.
 425 Fifth Avenue 5th Floor
 New York, NY 10016 USA

Applicant's Information:

Patricia Huntington	Phone 512-264-9247
121 North Post Oak Lane Suite 303	
Houston, Texas 77024 USA	

Goods/Services Affected by Opposition: Application No, 85458757 Publ. Date 4/24/2012

I Breathe Class 010/All goods and services are opposed; namely, nasal filter strips
 For therapeutic use that adhere to both sides of the nose and have an island of
 non-invasive filter to allow breathing and to strain out impurities in the air.

Grounds of Opposition

Priority and likelihood of Confusion/Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

US Application No. 85108272 Application date 8/16/2010 Word Mark I-Breathe
 Class 005/First Use Pharmaceutical prep for respiratory diseases
 US Application No, 85398038 Application date:8/15/2010 REDIBREATHE
 85116137 Application date 8/26/2010 REDI-BREATHE
 Classes 005 Breath Inhalers Class 010 Breath Inhalers (empty)



10-02-2012

To Paralegal:

Answers to TEVA Opposition ESRTTA 490205 filing date 8/21/2012

Defendant Patricia Huntington, an owner of Star Power Productions, a LLC organized under the laws of Texas, USA and certified by WBEC and HUB, believes that Teva Pharmaceutical has damaged the opportunity of the mark by filing Opposition and begs the pardon of the USPTO for submitting this format as at his point, legal representation seems unwarranted. The facts that respond to all the Opposition are as follows:

1. Both examiner and my trademark attorney cleared the application as being good.
2. Although the name I-Breathe although in different classes may appear the same, Redi-Breathe has no similarity.
3. The I-Breathe by defendant was ready for an "intent to use" application and all product and packaging information was provided in prior respons/answer.

I did state the date of mailing in my response/answer which was following the lead of TEVA attorney as I never signed for any mail from TEVA. Again I will provide proof of mail and certification.

My "argumentative" response /answer was pretty direct "show me the product or intent to create product" as TEVA attorney who suggested the birth date of TEVA's claim. She opened that door. My response/answer only reflected on the lack of intent to use. The confusion regarding Redi-Breathe was how it related to the claim other than as a distraction.

A Ignorance of the procedure is no excuse but it seems premature to assume I have any chance before the Board if statements 1-3 do not adequately answer the Opposition. My readings as to how to respond/answer was that I should respond to each Opposition. I have submitted the old responses/answers with a corrective format.

Opposition 91206643 p. 1

Defendant Patricia Huntington 's position is that Opposer Teva Respiratory/Teva Pharmaceuticals seeks to interrupt commerce by filing Opposition. TEVA refuses to identify I-Breathe and Redi-Breathe products or information for Defendant to review. Defendant can't submit "intent to use" while Opposition exists. Defendant's proof of product and packaging was provided in prior response.

Dear Board:

Answers to Opposer's statements

1. Opposer Teva Respiratory product's I-Breathe has no verifiable documentation to support its "highly affordable" claim or its availability to consumer market. ..
Applicant's I-Breathe is a nasal filter strip used merely as a preventative product for general consumer use and not as a "treatment". . Request by Applicant to "Show me the product(s)" has been denied so Applicant must only rely on Attorney's reference to how TEVA's product might perform and how the consumer market can be served by this Product(s).
CORRECTION; Defendant's i-Breathe will retail for under \$5.00/ten strips and I deny knowing any basis related to "highly affordable" TEVA product.
2. Opposer TEVA Respiratory's product claim as "pharmaceutical preparations" suggests their product is a pharmacy product whereas IBreathe nasal strips claims to be drug- free for general use. TEVA's claim states the filing is August 16,2010 and the TEVA website shows no recognition of IBREATHE.
Correction:Defendant's I Breathe is a " non drug" nasal filter strip with no moving parts.
3. Opposer suggests that Redi-Breathe inhaler ((Classes 05/010 consumers would confuse an inhaler with a "band-aid like" strip with completely different name and flat envelope packaging
Correction: Defendant's strip and an inhaler do not resemble each other
4. .Opposer suggests that the Redi-Breathe name and empty inhaler use are similar In nature to a strip packaged in an flat envelope without an inhaler displayed
Correction: Defendant's strip and Redi-Breathe empty inhaler have different patterns of use and have different user expectations " Breathe" is the only similarity.
5. Opposer suggests that I-Breathe and lbreathe would be confusing but the examiner and Attorney filing the trademark application did not find the mark/classes confusing.
NO Correction
6. Defendant's I-Breathe and Opposer's Redi-Breathe have no similarities and in fact, Redi-Breathe is a preventative products. Redi-Breathe implies spontaneous inhaler application. Defendant would not try to compete with the "world wide" deep money pockets of TEVA . The Defendant's nasal filter strips that are an inexpensive, effective consumer product for pollen havens if there was a conflict of brand use or recognition.
Correction: Defendant has no proof of "deep pockets" for TEVA.
7. It is unknown if Opposers worldwide international business would not be damaged by the I-Breath Product. Until Opposer produces a product.

Opposition # 9120643 p. 2

Answers to TEVA opposition ESRTTS 490205 Filing Date 8/21/2012

use as the Applicant has failed to show that it even has a product. It's world wide web page does not even recognize I-Breathe or Ibreathe.. I-Breathe, Redi-Breathe and RediBreathe appear to be not available In exploring all the public documents and offerings, the

Applicant could not reference any intent by the Opposer to develop the product .Applicant in good faith contacted on numerous occasions the North American office of TEVA In an effort to stimulate negotiations, commerce or any interest, and never received response

Correction: Defendant is not able at this time to assess the "world=wide " reputation of TEVA or the impact of this trademark on it's livelihood but I can in great detail show the Board the impact of this Opposition on my livelihood and reputation as a start up company. I can also show the Board that I was in contact with the North American office and never received any interest in anything related to I-Breathe.

Defendant is asking Board to DISMISS OR LIMIT THIS OPPOSTION .

Respectfully submitted,

Patricia Huntington

Patricia Huntington Sept 28 2012

Serving to Lisa Pieroni, TEVA attorney by US MAIL tracking number

PROOF OF MAIL
FOR LAST RESPONSE!

Response to Opposition ESTTA 490205

Attachments:

- (1) Appocant's Response to Opposition
- (2) Applicant;s Product Packaging (design, description, barcode)
- (3) Applicant's Certification page
- (4) Opposer's Redi-Breathe /Redibreathe web page
- (5) Opposer's I-Breathe web page
- (6) Opposer's International web page
- (7) Opposer's Internation webpage Re: Respiratory product line

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been mailed for service upon

Opposer's Attorney,s (Lisa Pieroni) at their address record by First Class Mail on

Undersigned date.



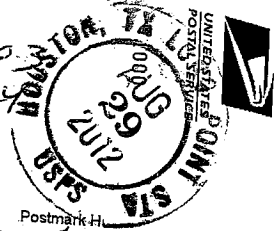
Certificate Of Mailing

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing.
This form may be used for domestic and international mail.

To pay fee, a
meter postag

From:

121 W Post Oak Lane 30
7702



To:

USPTO TRADEMARK & COPYRIGHT
PO Box 1451
Alexandria VA 22313-1451

U.S. POSTAGE
PAID
HOUSTON, TX
77055
AUG 29 12
AMOUNT
\$1.15
000-46359-03

PS Form 3817, April 2007 PSN 7530-02-000-9065



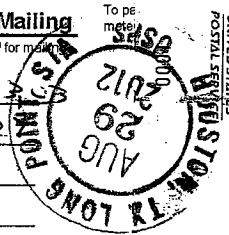
Certificate Of Mailing

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing.
This form may be used for domestic and international mail.

To pe
meter

From:

121 W Post Oak Lane 30
7702



To:

USA Patent
425 F. A. Ave Ste F1
NY NY 10016-222

U.S. POSTAGE
PAID
HOUSTON, TX
77055
AUG 29 12
AMOUNT
\$1.15
000-46359-03

PS Form 3817, April 2007 PSN 7530-02-000-9065

7012 1010 0001 4772 8438

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

ALEXANDRIA VA 22313

OFFICIAL USE

Postage	\$ 0.65	0032	Postmark Here
Certified Fee	\$ 2.95		
Return Receipt Fee (Endorsement Required)	\$ 0.00		
Restricted Delivery Fee (Endorsement Required)	\$ 0.00		
Total Postage & Fees	\$ 3.60	SEP 28 2012	

Sent To _____
 Street, Apt. No.,
 or PO Box No. _____
 City, State, ZIP+4 _____

PS Form 3800, August 2006 See Reverse for Instructions

7012 1010 0001 4772 8445

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

NEW YORK NY 10016

OFFICIAL USE

Postage	\$ 0.65	11	Postmark Here
Certified Fee	\$ 2.95		
Return Receipt Fee (Endorsement Required)	\$ 0.00		
Restricted Delivery Fee (Endorsement Required)	\$ 0.00		
Total Postage & Fees	\$ 3.60	SEP 28 2012	

Sent To _____
 Street, Apt. No.,
 or PO Box No. _____
 City, State, ZIP+4 _____

PS Form 3800, August 2006 See Reverse for Instructions